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C O N F I D E N T I A L SECTION 01 OF 02 BEIJING 002948

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SUBJECT: PRC: MFA STILL COOL TO UNCAC REVIEW MECHANISM

REF: STATE 106225

Classified By: Classified By: Political Minister Counselor Aubrey Carls
on for reasons
1.4 (B/D)

1. (C) Summary: While professing to hope for a successful third UNCAC Conference of the States Parties November 9-13 in Doha, PRC officials are in no hurry to reach agreement on terms of reference for a formal UNCAC review mechanism at the upcoming Doha conference. An MFA official said an additional two years might be necessary to reach agreement on the review mechanism. In response to reftel points, the MFA official told PolOff October 21 that while China would support the ability of NGOs and civil society to submit information to the formal review process, participation should be reserved for states parties only. Country visits were unnecessary, our interlocutor said, though acceptable, if subject to the consent of the state party under review. China would accept publication of limited sections of the review mechanism reports, but only after review and approval by the subject state party. China supported UN Regular Budget funding for UNCAC activities. Our interlocutor criticized UNCAC, claiming no state party had successfully recovered assets through use of the convention. China was more concerned about the lack of extradition cooperation among state parties. End Summary.

Ministry of Supervision Strikes Cautious Tone

2. (C) In response to reftel points urging PRC support for reaching agreement on terms of reference for a formal review mechanism for the UN Convention against Corruption (UNCAC) at the upcoming Doha meeting, Ministry of Supervision (MoS) International Cooperation Department Acting Director General Shao Shuwang told visiting INL Office Director David Luna October 17 that more time was needed for all the states parties to discuss the UNCAC review mechanism and, therefore, "more patience is needed." (Note: MoS oversees the National Bureau on Corruption Prevention.) During the meeting on the margins of an APEC anti-corruption workshop in Beijing, Shao confirmed that China would send a delegation to the Doha UNCAC meeting. China placed importance on the meeting and on U.S.-China bilateral cooperation on anti-corruption, Shao said. However, the negotiations over an UNCAC review mechanism were "very complicated," and the issue was "even larger than" U.S.-China cooperation on anti-corruption. Shao highlighted the need for "additional in-depth discussions in an atmosphere of respect for and understanding of national and cultural differences," including "the unique circumstances China faces as the largest developing country."

China Wants Successful UNCAC but...

3. (C) On October 21, PolOff, accompanied by a Swedish

Embassy officer, conveyed reftel points to MFA Treaty and Law Department Third Division Director Tian Lixiao. Tian stressed the importance of reaching an agreement and of the successful implementation of the treaty, adding that China did not want the conference to fail.

...Has Objections on Five Key Issues

¶4. (C) Director Tian said that China did not support NGO or private sector participation in the review mechanism process, stating that participation should be reserved for states parties only. China could accept NGOs submitting information to the review process. Country visits were unnecessary, Tian said, asserting that the self-assessment checklist would provide sufficient information for the review process. China, however, was open to the idea of country visits, subject to the consent of the state party under review. China did not support funding the review mechanism activities through voluntary contributions; rather, the UNCAC, as a formal UN mechanism, should be funded by the UN Regular Budget. Tian suggested that should funding difficulties arise, alternate funding means could be explored. China would accept public access only to selected sections of the final review reports, Tian said, stressing that the state party under review would have to approve the final report.

UNCAC Ineffective, Says MFA

¶5. (C) Since UNCAC came into force in 2005, no country had successfully recovered assets through use of the convention,

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according to Tian. Establishing a track record of successful asset recovering cases was therefore necessary before contemplating further changes to the currently "ineffective" convention.

Extradition an Issue of Greater Concern

¶6. (C) "The Chinese people need to see that (UNCAC) is useful," Tian said, claiming that initiation of a review mechanism had little support in China. China was more concerned about the fact the corrupt PRC officials who had absconded from China were often not extradited from the countries to which they fled, including states parties to UNCAC. Tian added that China would not raise the extradition issue in the deliberations of the review mechanism, because the review mechanism itself was "neither necessary, nor helpful."

Transparency, but Not Openness?

¶7. (C) While agreeing on the importance of transparency in the review process, Tian insisted that addressing transparency concerns did not include states parties sharing information with civil society. Tian argued that states parties, not civil society, had the obligation to implement the convention. The role of the review process should not be to criticize states parties but rather to encourage dialogue. China hoped that UNCAC would work in practice and that the Conference of State Parties (CoSP) would have the legitimacy to implement the convention and monitor its implementation.

"No Need to Rush"

¶8. (C) Tian suggested that an additional two years (i.e., until the next CoSP scheduled for 2011) would be necessary to reach agreement on the review mechanism, underscoring that "there is no need to rush" if the end result would be an ineffective and illegitimate mechanism.

